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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,767	03/09/2004	Yoshimasa Kinoshita	FS.20130US0A	4339
20995	7590	01/05/2006	EXAMINER	
KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			SWINEHART, EDWIN L	
		ART UNIT	PAPER NUMBER	
		3617		

DATE MAILED: 01/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/796,767	KINOSHITA, YOSHIMASA
	<b>Examiner</b>	<b>Art Unit</b>
	Ed Swinehart	3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 31 October 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-21 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 19 is/are allowed.
- 6) Claim(s) 1-18, 20 and 21 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |  |
|---|--|
| <ol style="list-style-type: none"> <li>1)<input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</li> <li>2)<input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</li> <li>3)<input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br/>Paper No(s)/Mail Date _____</li> </ol> | <ol style="list-style-type: none"> <li>4)<input type="checkbox"/> Interview Summary (PTO-413)<br/>Paper No(s)/Mail Date. _____</li> <li>5)<input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</li> <li>6)<input type="checkbox"/> Other: _____</li> </ol> |
|---|--|

## DETAILED ACTION

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 21 and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The dependency of claims 21 and 22 cannot be determined, and as such these claims are not further treated on the merits.

3. Claims 1-9 and 11-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Japan '486.

Japan '486 discloses the claimed invention. A throttle valve **56** resides within the induction system, and closing of same would result when the engine is shut down responsive to the output from the overturn sensor. Further blocking devices **22,23**. A designated time period is provided by the controller as claimed. A closed throttle valve inherently comprises a blocking device as claimed.

Re claims 8,13 and 18, such a turn over sensor will have an inherent lag between the righting of the craft, and the output of the sensor indicating such positioning. Such lag is inherently a "predetermined time".

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Japan '486 in view of Takashima.

Japan '486 fails to disclose a lanyard switch as claimed.

Takashima teaches same.

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide Japan '486 with a lanyard switch as taught by Takashima.

Such a combination would have been desirable at the time of the invention so as to provide for enhanced safety of the watercraft.

Applicant's arguments filed 10/31/2005 have been fully considered but they are not persuasive.

5. Applicant's arguments are directed towards what is apparently a US equivalent to Japan '486, applied by the examiner. It will be assumed Applicant's arguments are directed towards the document applied.

Applicant argues that nothing in Japan '486 discloses that the throttle valve will close when the engine is shut off.

It is considered an inherency in IC gasoline engine operation, and common knowledge, that throttle plate orientation is coordinated with engine speed and the desire for increase in speed, therefore, throttle plate is closed when engine is shut off.

Applicant further states that "one of ordinary skill in the art would understand that when the engine ...is shut off...the throttle valve...returns to an idle speed condition...".

The examiner agrees, and Applicant makes the examiner's point for him. Such a throttle position is essentially closed.

Applicant argues that there is nothing in Japan '486 to suggest a blocking device disposed within the intake system of the watercraft, which guides air from the engine compartment to the engine.

The claims as presented do not define over the intake system and blocking means of Japan '486. The claims do not preclude the duct 17 Japan '486 for example, as being part of the intake system. The intake system may include more elements and do more than just deliver air to the engine from the engine compartment, and still perform the claimed function and meet the claim limitation. The closing of the valve 22 of Japan '486 DOES close and prevent water passage through the intake system as claimed.

6. Claim 19 is allowed.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

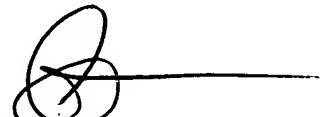
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ed Swinehart whose telephone number is 571-272-6688. The examiner can normally be reached on Monday through Thursday 6:30 am to 2:00 pm..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ed Swinehart  
Primary Examiner  
Art Unit 3617